

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

**RICK L. EDWARDS,
Plaintiff,**

v.

Case No. 05-C-1206

**MATTHEW FRANK,
DR. M. JOSEPH,
SUE NYGREN,
J. CARLSON,
and LINDA K.,
Defendants.**

DECISION AND ORDER

On August 16, 2007, defendants filed a suggestion of plaintiff's death upon the record along with a certificate of service indicating that a copy of the suggestion of death was mailed to plaintiff at his last known address. The suggestion of death was returned to defendants on August 28, 2007, marked "RETURN TO SENDER" and "UNABLE TO FORWARD."

As discussed in my order dated August 15, 2007, once the death of a party is properly suggested on the record, any party, successor or representative of the deceased has 90 days to file a motion for substitution. Fed. R. Civ. P. 25(a)(1). If no motion for substitution is made, the action shall be dismissed as to the deceased party. Id.

Review of the case file demonstrates that plaintiff's death was properly suggested on the record on August 16, 2007. Under Rule 25(a)(1) any motion for substitution was due on or before November 14, 2007. Because no motion for substitution has been filed in the more than five months since plaintiff's death was suggested on the record, this action will be dismissed.

CONCLUSION

For the foregoing reasons,

IT IS THEREFORE ORDERED that this action is **DISMISSED**.

IT IS FURTHER ORDERED that the Clerk of Court enter judgment accordingly.

Dated at Milwaukee, Wisconsin, this 16 day of January, 2008.

/s _____
LYNN ADELMAN
District Judge